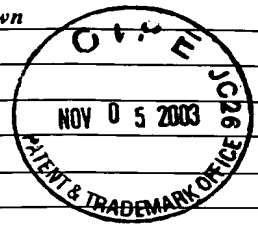


Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2004 <i>Effective 10/01/2003. Patent fees are subject to annual revision.</i>		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/421,676
		Filing Date	October 20, 1999
		First Named Inventor	Bernhard Gotz
		Examiner Name	Michael Mar
		Art Unit	3619
TOTAL AMOUNT OF PAYMENT (\$) 1,920.00		Attorney Docket No.	964-991369



METHOD OF PAYMENT (check all that apply) <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/> Deposit Account: Deposit Account Number: 23-0650 Deposit Account Name: The Director is authorized to: (check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.				FEE CALCULATION (continued)																																																																																																																																																																																																																																															
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SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	William H. Logsdon	Registration No. (Attorney/Agent)	22,132
Signature	<i>William H. Logsdon</i>	Telephone	412-471-8815
		Date	November 3, 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Application No. 09/421,676
Paper Dated: November 3, 2003
Attorney Docket No. 964-991369

25/11/03
Y. Smille
11/28/03



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No. : 09/421,676
Applicant : BERNHARD GOTZ
Filed : October 20, 1999
Title : INDUSTRIAL TRUCK WITH A REAR WEIGHT
AND INTERNAL COMBUSTION ENGINE
Group Art Unit : 3619
Examiner : Michael Mar

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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GROUP 3600

LETTER

Sir:

Appellant respectfully requests reinstatement of the Appeal and entry of the accompanying Terminal Disclaimer in the above-identified patent application.

A first final Office Action was issued in this case on December 4, 2001 rejecting claims 1-19, 21, and 22. Appellant's Notice of Appeal was received by the Patent Office on May 14, 2002 and Appellant timely submitted an Appeal Brief on July 15, 2002. After submission of the Appeal Brief, the Examiner issued a second final Office Action dated

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

11/03/2003

Date

Signature

Tamara S. Griffith

Typed Name of Person Signing Certificate

Application No. 09/421,676
Paper Dated: November 3, 2003
Attorney Docket No. 964-991369

October 28, 2002 reopening prosecution in this case but again finally rejecting claims 1-19, 21, and 22 based at least partly on a newly cited prior art reference (U.S. Patent No. 4,202,453 to Wilkes, Jr. et al.). Appellant submitted a Petition for Extension of Time and a Notice of Appeal on April 28, 2003 (received by the Patent Office on May 2, 2003). A Supplemental Appeal Brief is submitted concurrently herewith in support of the Notice of Appeal.

Initially, Appellant respectfully traverses the finality of the October 28, 2002 Office Action on the grounds that the Wilkes reference was a newly cited reference and Appellant had no reasonable opportunity to address this new reference prior to issuance of the second final Office Action.

Additionally, a Notice of Abandonment dated July 30, 2003 was received in this case on the basis that an Appeal Brief was not timely submitted in support of the Notice of Appeal. Appellant respectfully disagrees. The second final Office Action was dated October 28, 2002. Appellant filed a Notice of Appeal with the requisite Petition for Extension of Time on April 28, 2003. The accompanying Supplemental Appeal Brief is being timely submitted. Therefore, Appellant believes that the Notice of Abandonment was issued in error.

Application No. 09/421,676
Paper Dated: November 3, 2003
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However, should the Patent Office disagree, Appellant hereby states that the abandonment of the application was unintentional and Appellant respectfully requests revival of the application and reinstatement of the Appeal.

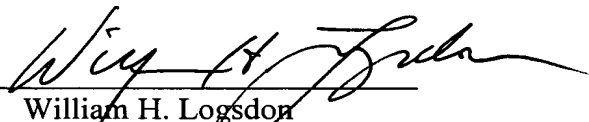
Terminal Disclaimer

Appellant submits herewith a Terminal Disclaimer and respectfully requests entry of the Terminal Disclaimer pursuant to 37 C.F.R. § 1.195.

The rejection of claim 21 under the judicially created doctrine of obviousness-type double patenting was not present in the first final Office Action of December 4, 2001 and from which the initial appeal was taken and the Appeal Brief filed in support thereof. The double-patenting rejection was raised in the second final Office Action of October 28, 2002, which granted Appellant the option to file a reply under 37 C.F.R. § 1.113 or to continue the appeal process (which Appellant has chosen to do). Therefore, pursuant to 37 C.F.R. § 1.195, entry of the Terminal Disclaimer is respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.

By 
William H. Logsdon
Registration No. 22,132
Attorney for Appellant
700 Koppers Building
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Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com